



Opportunity to Purchase Policy Options for the City of Minneapolis

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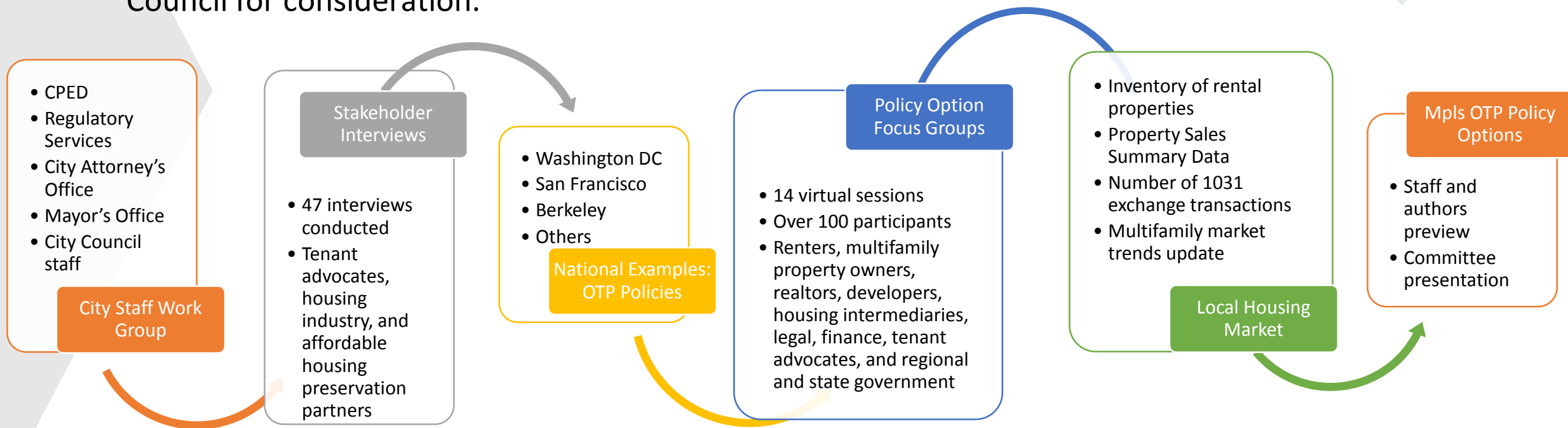
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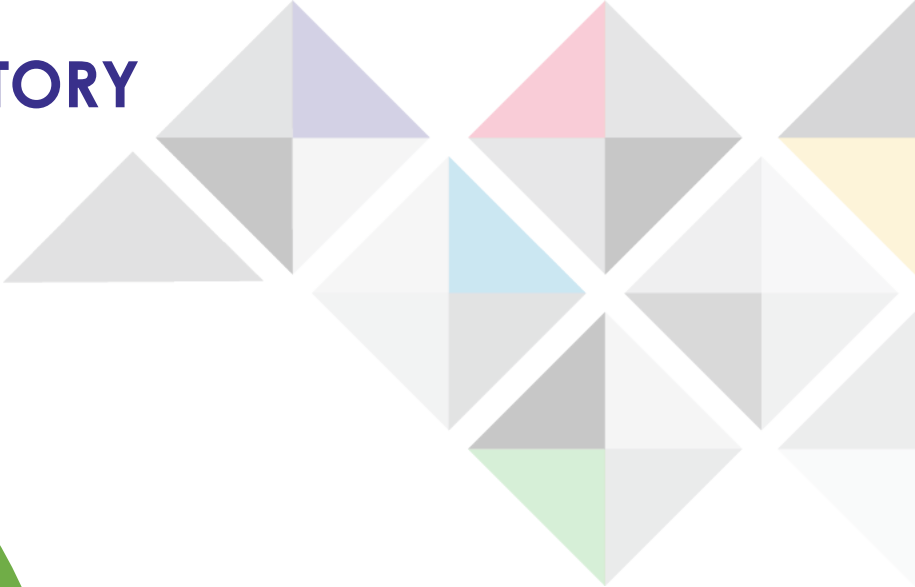
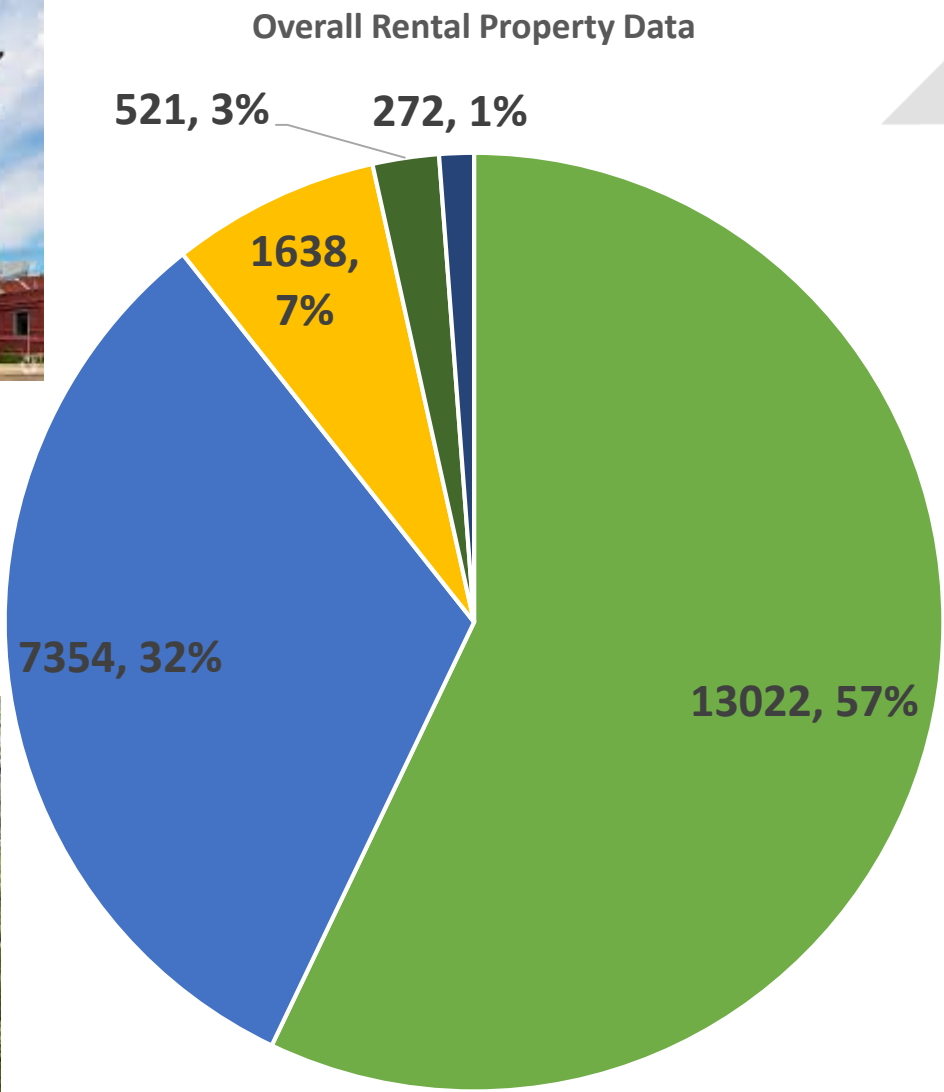
OVERVIEW OF OTP PROJECT AND PROCESS

Objectives:

1. Conduct research on national examples of Opportunity to Purchase policies.
2. Engage stakeholders to share input on policy options and potential impacts.
3. Provide an assessment of Opportunity to Purchase policy options to the City Council for consideration.



LOCAL HOUSING MARKET RENTAL PROPERTY INVENTORY



Source: Minneapolis Rental License data, 3/27/20

MINNEAPOLIS HOUSING MARKET

APARTMENT SALES SUMMARY

(Properties built before 2010)

Minneapolis Apartment Sales Data	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	1031 EX (2019)	Median 2005-2019
2-4 Units	1,256	944	645	851	902	594	560	602	596	571	678	684	710	706	774	8	684
5-20 Units	88	69	50	43	29	28	28	41	36	28	37	33	37	39	36	13	37
21-49 Units	40	16	13	15	5	3	4	11	6	16	8	5	14	14	9	5	11
50+ Units	6	7	2	9	1	4	7	4	5	7	10	3	8	4	6	6	6
Total Sales	1,390	1,036	710	918	937	629	599	658	643	622	733	725	769	763	825	32	733

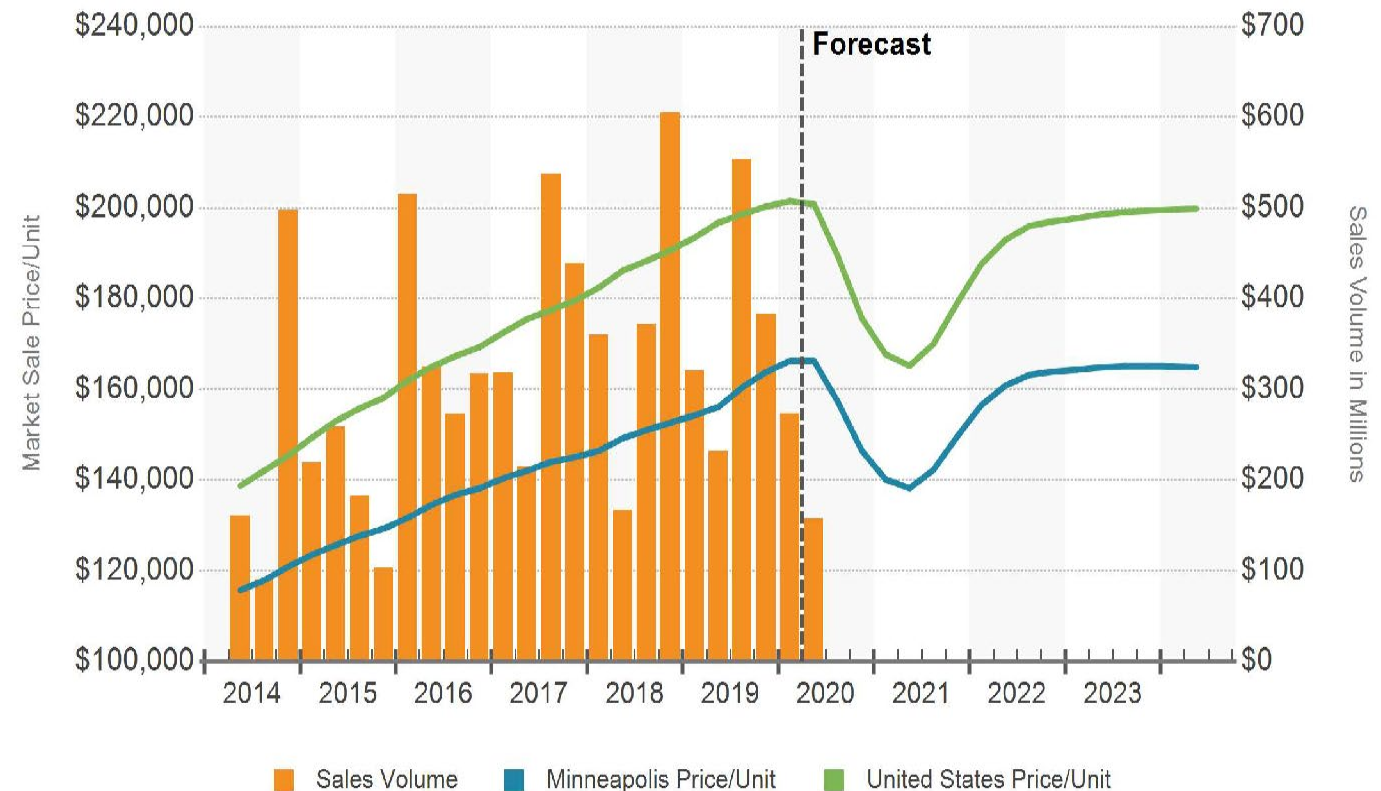
Source: eCRV Apartment Sales Data, 2005 - 2019

Properties 5 units or more: 54

MINNEAPOLIS HOUSING MARKET TRENDS

- The majority of investors purchasing properties in the multifamily sector have been national, with local and foreign investors selling more of their assets in Minneapolis than purchasing new ones.
- A tight vacancy rate, strong demand, and solid rent growth in the Minneapolis market have captured the attention of investors, both local and out-of-state.
- Sales volume will likely decline significantly in the near term as lenders and investors deal with a lack of liquidity in the market as underwriters and capital sources sort out the new normal in risk assessment and valuation.

Source: CBRE Multifamily Market Report, June 2020



Source: Minneapolis MN Multi-Family Housing Market, CBRE, Sam Newberg, June 24, 2020

MULTIFAMILY FINANCING SOURCES

Predevelopment Funding	City Sources	State/Federal Sources	Nonprofit/CDFI Sources
			LISC Feasibility and Recoverable grants
			LISC loans & equity
			GMHF loans & equity
Acquisition Financing	City Sources	State/Federal Sources	Nonprofit/CDFI Sources
	NOAH Preservation Fund		GMHF NOAH Impact Fund
	Minneapolis Small/Medium Multifamily Fund (SMMF)		LISC loans & equity
	Minneapolis Home Financing		Land Bank Twin Cities
	Housing Revenue Bonds and Tax Exempt Mortgage Notes		GMHF loans & equity
			Shared Capital Cooperative
Construction/Rehab Loan	City Sources	State/Federal Sources	Nonprofit/CDFI Sources
	Minneapolis allocation - LIHTC	Federal LIHTC (9% and 4%)	LISC loans & equity
	Minneapolis Middle Rental Pilot	MN Housing Deferred Loans (HOME, NHTF, LMIR, FFCC, PARIF)	GMHF loans & equity
	Minneapolis Homes Financing	MN Housing Infrastructure Bonds	Land Bank Twin Cities
		MN Housing programs to prevent/end homelessness	Shared Capital Cooperative
Permanent Financing	City Sources	State/Federal Sources	Nonprofit/CDFI Sources
	Minneapolis Affordable Housing Trust Fund (AHTF)	Federal LIHTC (9% and 4%)	
	NOAH Preservation Fund	MN Housing Deferred Loans (HOME, NHTF, LMIR, FFCC, PARIF)	
	Housing Revenue Bonds and Tax Exempt Mortgage Notes	MN Housing Infrastructure Bonds	
	Minneapolis allocation - LIHTC	MN Housing programs to prevent/end homelessness	

BUILDING A TECHNICAL ASSISTANCE ECOSYSTEM

Essential Services

Education and Communication

- Neighborhood organizations
- Cultural community organizations
- Minneapolis Area Realtors Association
- MN Multifamily Housing Association
- MN Housing Partnership

Tenant Organizing

- Inquilinxs Unidxs Por Justicia
- Homeline
- Jewish Community Action
- Northcountry Cooperative Foundation
- Hope Community

Legal Advice

- Housing Justice Center
- Mid MN Legal Aid
- HOME Line
- Real estate lawyers

Enhanced Services

Homeownership Training

- Habitat for Humanity
- African Development Center
- Build Wealth
- PRG
- Project for Pride in Living (PPL)
- NeighborWorks Home Partners
- City of Lakes Community Land Trust

Interim Hold (Qualified Organizations)

- Land Bank Twin Cities
- Hope Communities
- Urban Homeworks
- PPL
- Others

STAKEHOLDER FEEDBACK

Housing Industry Partners

- Flexibility will be key to enable various pathways, cascading assignment of rights will increase NOAH options
- Build on and reinforce existing policies (Advance Notice, 4d, and other anti-displacement measures)

Affordable Housing Preservation Partners

- Success will rely on access to technical assistance and financing at-the-ready.
- Qualified Organizations as interim position, time to build out ownership structures (condos, limited equity co-ops)

Tenant Advocates and Organizers

- Tenant rights at the core, address imbalance of power in current system
- Qualified Organization selection and criteria should be informed by tenants and tenant advocates

Minneapolis Renters

- Focus on anti-displacement above all else, include additional tenant protections if possible
- Access to multilingual information (education) and resources are critical to support renters

Building Minneapolis Together

- Owning and operating rental housing is a business – opposition to additional regulation and restrictions over the management of those businesses
- Preservation of existing housing stock is most important, and cost efficient – create more ways to reinvest

MN Multifamily Housing Association

- OTP policy would undermine owner's motivation to make improvements and upgrades to property (value-add)
- Increases transactional costs for both time and money (e.g. additional legal costs incurred)

Minneapolis Area Realtors Association

- Opposed to Right of First Refusal – unfair advantage in market. Transition into ownership takes training/time.
- Encourages more pathways for ownership (e.g. limited equity cooperatives)

Equity in Place

- To advance racial equity, market disruptions are considered positive (benefit renters and people of color)
- Include all housing types to accommodate the full range of household size

OPPORTUNITY TO PURCHASE POLICIES IN OTHER JURISDICTIONS

Jurisdiction	Policy Name	Year Enacted	Policy Objective	Housing Type	Type of Right	Right to Exercise	Affordability Restrictions	Assign Rights	Local Funding Sources Requiring Affordability Covenants
Washington, DC	Tenant Opportunity to Purchase Act (TOPA)	1980	Tenant rights	1, 2-4, and 5+ units	Right to Purchase and Right of First Refusal	Tenants	No	Yes	<ul style="list-style-type: none"> Housing Production Trust Fund Affordable Housing Preservation Fund First Right Purchase Program Local Rent Supplement Program, Housing Initiative Fund
Montgomery County, MD	Right of First Refusal	1981	Preservation of affordable housing	4+ units	Right of First Refusal	Tenants and Housing Opportunities Commission	Yes		
New Hampshire	Manufactured home park right to purchase	1987	Tenant rights	Manufactured home parks	Right of First Refusal	Tenants	No	No	<ul style="list-style-type: none"> New Hampshire Community Loan Fund NH Housing Finance Agency facilitated purchase of individual mortgages by Fannie Mae
Minnesota	Manufactured home park right to purchase	1991	Tenant rights	Manufactured home parks	Right of First Refusal	Tenants	No	No	
Washington, DC	District Opportunity to Purchase Act (DOPA)	2008; regulations issued 2018	Preservation of affordable housing	5+ units	Right to Purchase subordinate to TOPA	Qualified Developer	Yes	No	<ul style="list-style-type: none"> Housing Production Trust Fund Affordable Housing Preservation Fund First Right Purchase Program Local Rent Supplement Program
Chicago, IL	Single-Room Occupancy Preservation Ordinance	2014	Preservation of affordable housing	SROs	Right of First Offer	Registered Developer	Yes	No	<ul style="list-style-type: none"> SRO Improvement and Stabilization Program Low Income Housing Trust Fund
San Francisco, CA	Community Opportunity to Purchase Act (COPA)	2019	Preservation of affordable housing	3+ units	Right of First Offer and Right of First Refusal	Qualified Nonprofit Developer	Yes	No	<ul style="list-style-type: none"> San Francisco Housing Accelerator Fund Small Sites Program Preservation and Seismic Safety Program (permanent financing)
Berkeley, CA	Tenant Opportunity to Purchase Act (TOPA)	Current legislation	Tenant rights and preservation of affordable housing	1, 2, and 3+ units	Right of First Offer and Right of First Refusal	Tenants and Qualified Organization	Yes	Yes, to a Qualified Organization	

DEFINING THE TERMS

Why? What is the city trying to solve?

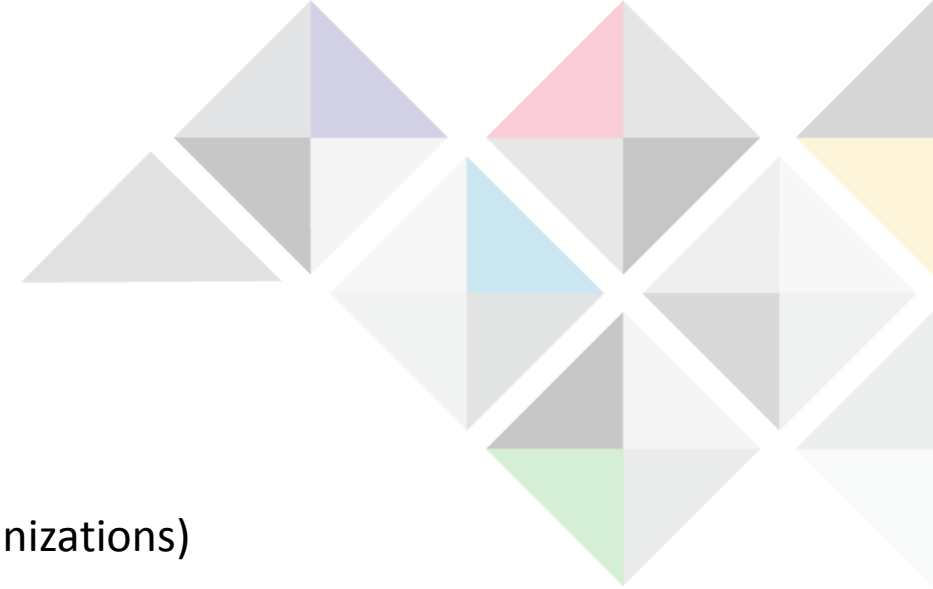
- Create tenant ownership opportunities
- Prevent involuntary displacement
- Preserve housing stability

Who? Who is assigned the right to purchase/offer (Tenants, Qualified Organizations)

What? Housing types to be included (or excluded/exemptions). Informs capacity needed for city administration of the policy.

How? Policy elements include:

- Timeline for transaction process
- Resource allocations for technical assistance and financing gaps (identify TA providers and financing options currently available)
- Systems and staffing supports, including access for notification, communication and education, tracking, and enforcement



COMPARISON OF MINNEAPOLIS OPPORTUNITY TO PURCHASE OPTIONS

	Policy Objective	Housing Type	Type of Right	Right to Exercise	Affordability Restrictions	Assign Rights
Option 1	Tenants' rights and anti-displacement	1, 2-4, 5-20, 21-49, and 50+ units	Right of First Offer and Right of First Refusal	Tenants	No	Yes
Option 2	Tenants' rights, anti-displacement, tenant protections, and rent stabilization	1, 2-4, 5-20, 21-49, and 50+ units	Right of First Offer and Right of First Refusal	Tenants and/or Qualified Organization	Yes, rent stabilization	Yes
Option 3	Anti-displacement, tenant protections, and affordability restrictions	1, 2-4, 5-20, 21-49, and 50+ units	Right of First Offer and Right of First Refusal	Qualified Organization	Yes, 4d program	No

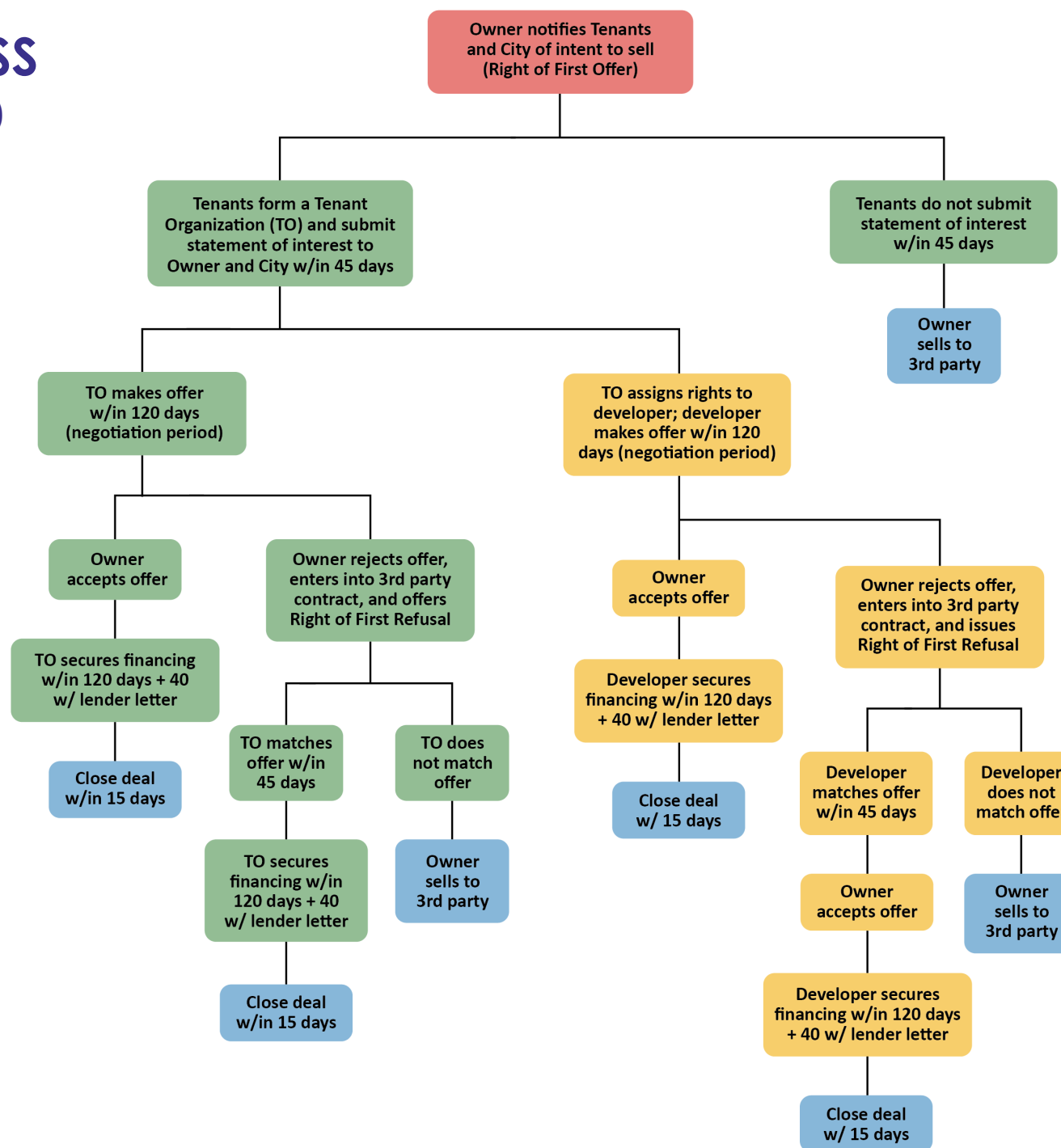
OPTION 1: TENANTS' RIGHTS AND ANTI-DISPLACEMENT

Option 1 focuses on tenants' rights and preventing displacement of tenants and existing tenant communities.

- Only a Tenant or Tenant Organization may exercise rights.
- Provides the residents of a property with the greatest discretion in choosing development options and the future of their community.
- Does not require the preservation of or increase in affordability in the property.
- Allows tenants to assign their rights to a third party of their choice.
- City funding for the provision of technical assistance to Tenant Organizations by community-based nonprofits is highly recommended to increase successful exercise of the opportunity to purchase.

OPTION 1 PROCESS

(FOR 50+ UNIT PROPERTIES)



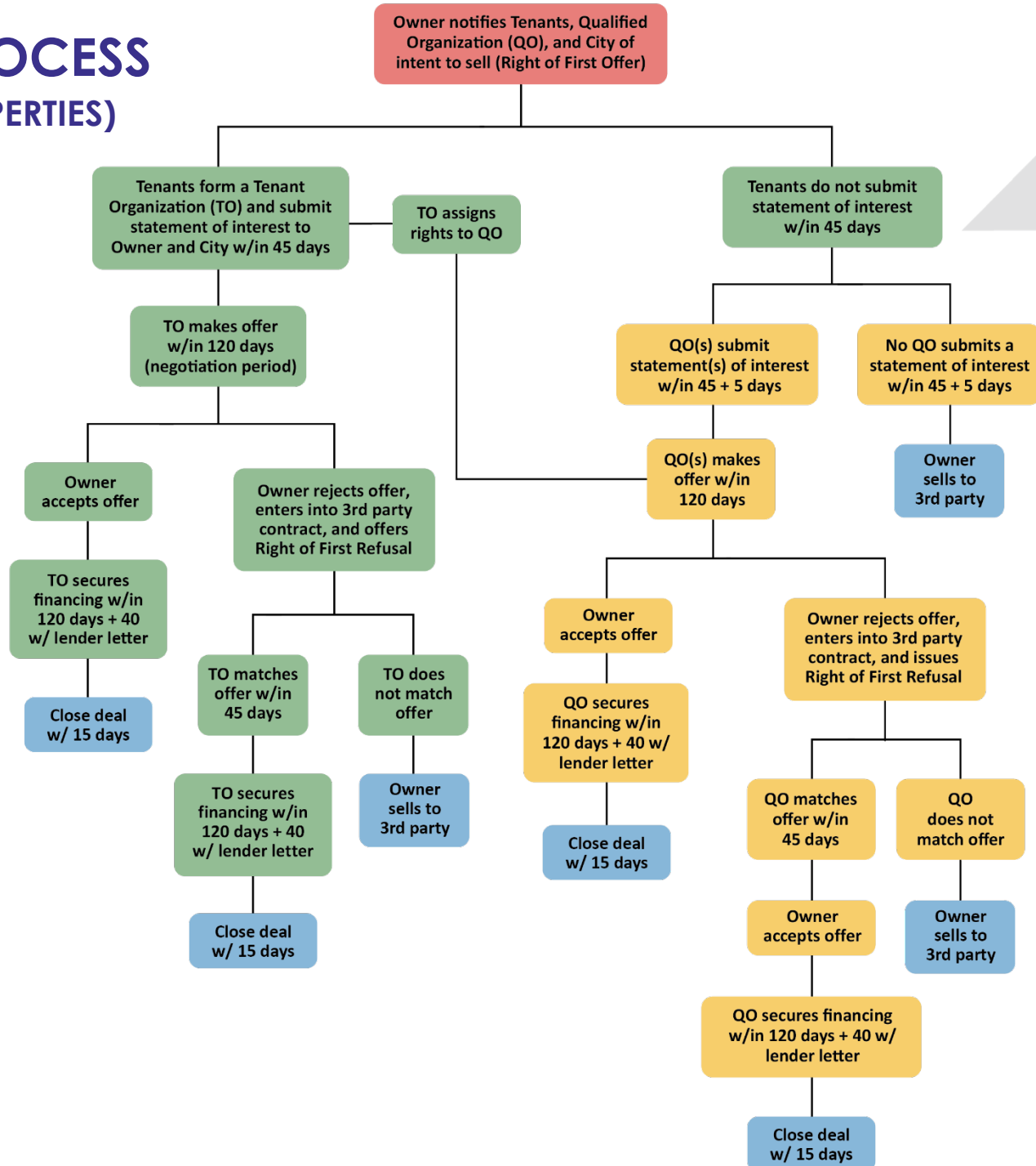
OPTION 2: TENANTS' RIGHTS, ANTI-DISPLACEMENT, TENANT PROTECTIONS, AND RENT STABILIZATION

Option 2 balances the interests of the residents of a property in deciding the future of their community with the policy priorities of increased tenant protections and rent stabilization.

- A Tenant, Tenant Organization, or Qualified Organization.
- Tenants may exercise their rights and assign them.
 - The Tenant in a single-unit Rental Housing Accommodation may assign their rights to a person or entity.
 - A Tenant Organization may assign its rights in a 2-4 unit Rental Housing Accommodation to a person or entity.
 - A Tenant Organization in a 5+ unit Rental Housing Accommodation may assign its rights to a Qualified Organization.
- Any person or entity that purchases a property using the opportunity to purchase policy and continues its use as a rental housing accommodation would be required by the City to abide by just cause eviction, source of income discrimination protections, and rent stabilization restrictions.
- City funding for the provision of technical assistance to Tenant Organizations by community-based nonprofits is highly recommended to increase successful exercise of the opportunity to purchase.

OPTION 2 PROCESS

(FOR 50+ UNIT PROPERTIES)



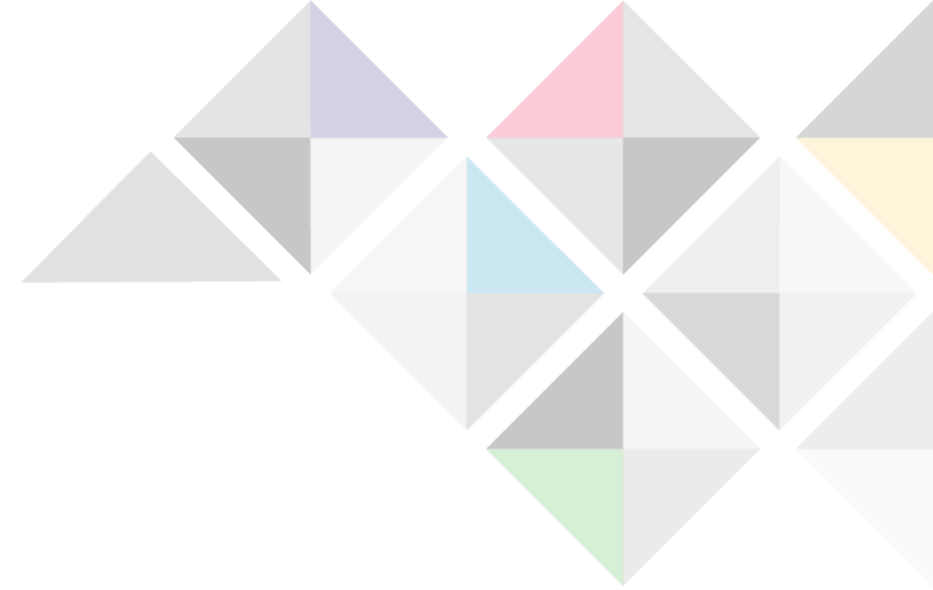
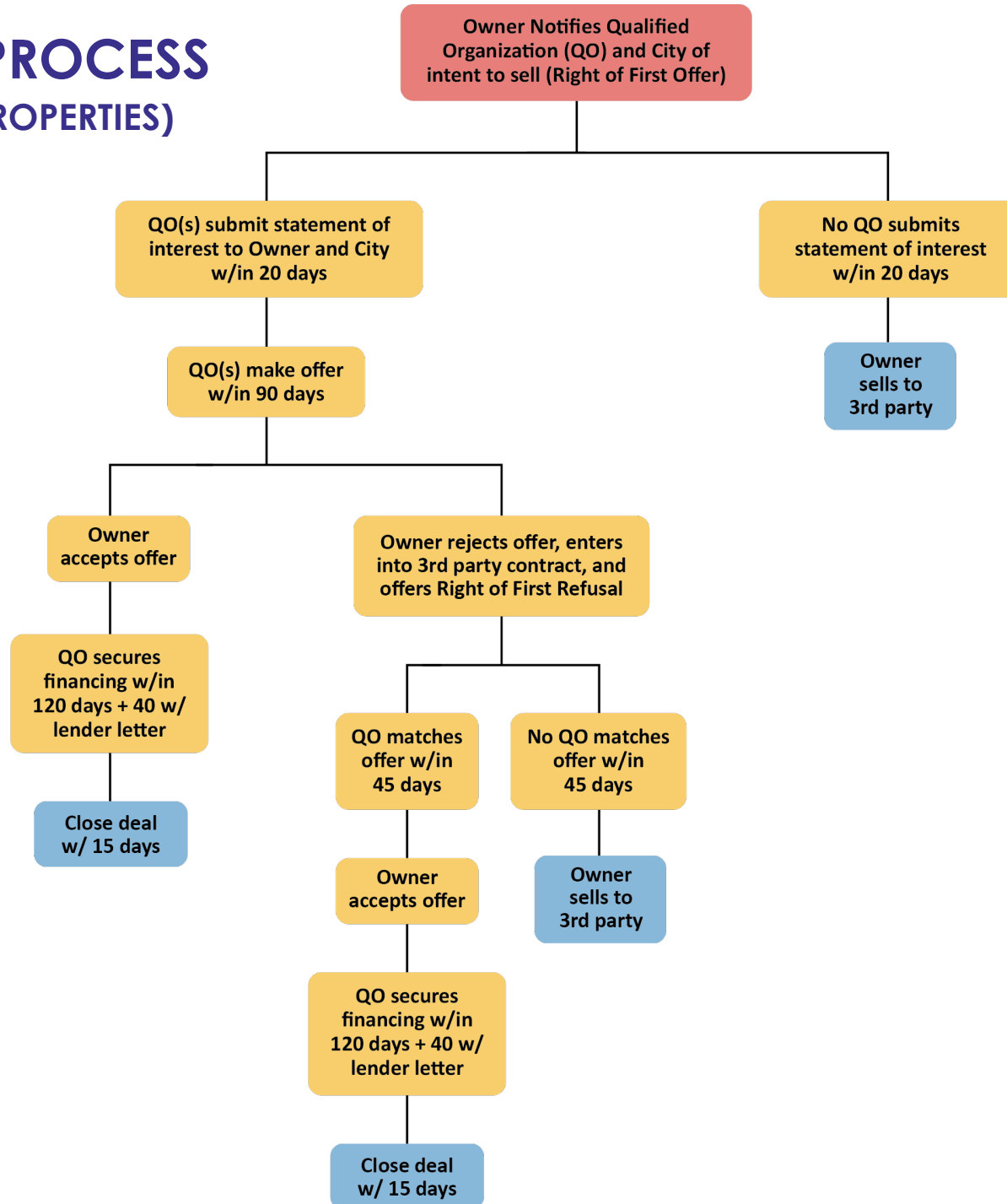
OPTION 3: ANTI-DISPLACEMENT, TENANT PROTECTIONS, AND RENT STABILIZATION

Option 3 focuses on preventing displacement of tenants and existing tenant communities and preserving or increasing affordability.

- Only Qualified Organizations that have met certain criteria for owning and managing affordable Rental Housing Accommodations set by the City may exercise rights.
- By limiting exercise of the opportunity to purchase to Qualified Organizations, Option 3 minimizes the time needed to evaluate a property, submit an offer, respond to an offer, secure financing, and close a deal.
- Any entity that purchases a property using the opportunity to purchase policy would be required by the City to abide by just cause eviction and source of income discrimination protections and to enroll the Rental Housing Accommodation in the City of Minneapolis 4d Affordable Housing Incentive Program.

OPTION 3 PROCESS

(FOR 50+ UNIT PROPERTIES)



TIMELINES FOR MINNEAPOLIS OPPORTUNITY TO PURCHASE OPTIONS

	Housing Type	Type of Right	Right to Exercise	Registration of Interest	Due Diligence Materials	Negotiation Period (days)	Accept Offer of First Refusal	Secure Financing	Close
Option 1	50+ units	Right of First Offer	Tenant Organization	45	Owner must provide in response to Statement of Interest	120	-	120 + 40 w/ lender letter	15+
		Right of First Refusal		-		-	45		
	21-49 units	Right of First offer		30		90	-	90 + 40 w/ lender letter	15+
		Right of First Refusal		-		-	30		
	5-20 units	Right of First Offer		30		60	-	60 + 30 w/ lender letter	15+
		Right of First Refusal		-		-	30		
	2-4 units	Right of First Offer		20		60	-	60 + 30 w/ lender letter	15+
		Right of First Refusal		-		-	20		
Option 2	50+ units	Right of First Offer	Tenant Organization and/or Qualified Organization	45 (+5 for QOs)	Owner must provide in response to Statement of Interest	120 (90*)	-	120 + 40 w/ lender letter	15+
		Right of First Refusal		-		-	45 (20*)		
	21-49 units	Right of First Offer		30 (+5 for QOs)		90 (60*)	-	90 + 40 w/ lender letter	15+
		Right of First Refusal		-		-	30 (20*)		
	5-20 units	Right of First Offer		30 (+5 for QOs)		60	-	60 + 30 w/ lender letter	15+
		Right of First Refusal		-		-	30 (20*)		
	2-4 units	Right of First Offer		20		60	-	60 + 30 w/ lender letter	15+
		Right of First Refusal		-		-	20		
Option 3	50+ units	Right of First Offer	Qualified Organization	20	Owner must provide in response to Statement of Interest	90	-	120 + 40 w/ lender letter	15+
		Right of First Refusal		-		-	20		
	21-49 units	Right of First Offer		20		60	-	90 + 40 w/ lender letter	15+
		Right of First Refusal		-		-	20		
	5-20 units	Right of First Offer		20		60	-	60 + 30 w/ lender letter	15+
		Right of First Refusal		-		-	20		
	2-4 units	Right of First Offer		20		60	-	60 + 30 w/ lender letter	15+
		Right of First Refusal		-		-	20		
	1 unit	Right of First Offer		20		30	-	30 + 15 w/ lender letter	15+
		Right of First Refusal		-		-	20		

COMPARISON OF COSTAR DATA ON PROPERTY DAYS ON MARKET 2018-2020 VS. MINNEAPOLIS OTP OPTIONS MAXIMUM TIMELINES

	Housing Type	Average Days on Market 2018-2020*	Highest Days on Market 2018-2020*	Maximum Days Using Right of First Offer	Maximum Days Using Right of First Offer and Right of First Refusal
Option 1	50+ units	111	327	320	365
	21-49 units	98	196	265	295
	5-20 units	151	773	195	225
	2-4 units			185	205
	1 unit			110	130
Option 2	50+ units	111	327	325	370
	21-49 units	98	196	270	300
	5-20 units	151	773	200	230
	2-4 units			185	205
	1 unit			110	130
Option 3	50+ units	111	327	285	305
	21-49 units	98	196	225	245
	5-20 units	151	773	185	205
	2-4 units			185	205
	1 unit			110	130

* Costar data for October 2018 to October 2020. Total property sales: 50+ unit properties = 13; 21-49 unit properties = 11; 5-20 unit properties = 30.

EXEMPTIONS

Notice of Transfer: An Owner claiming any of the exemptions below must provide to the Tenants and to the City a Notice of Transfer of an interest in a Rental Housing Accommodation or of any ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity that owns a Rental Housing Accommodation.

Exemptions based on type of property

- A single-family home owned by a real person as their sole residential rental property.
- A single-family home that an owner occupies as their principal residence, including a single-family home with an accessory dwelling unit or other secondary dwelling unit, where an owner occupies either the single-family home or the secondary unit as their principal residence.
- Properties owned by cooperative corporations, if the property is owned, occupied, and controlled by a majority of residents.
- Properties that do not include one or more tenants, such as those owned by and operated as a hospital, convent, monastery, extended care facility, convalescent home, or dormitories owned by educational institutions, or properties properly licensed as a hotel or motel.

Exemptions based on type of transfer

- Family/estate/trust transfers
- Corporate transfer
 - Any transfer of a property directly caused by a change in the form of the entity owning the property, provided that the transfer is without consideration.
 - Any transfer from one co-tenant to another co-tenant by operation of law.
 - Any transfer of a minority title interest.
 - Certain types of transfers of interest in a property participating in the federal Low Income Housing Tax Credits (LIHTC) program.
- Court/government transfers
 - A transfer pursuant to court order or court-approved settlement (bankruptcy, foreclosure, tax sale, etc.)
 - A transfer by eminent domain or under threat of eminent domain

ADMINISTRATION AND ENFORCEMENT

Option 1, 2, and 3 administrative and enforcement tasks for the Opportunity to Purchase program. The City should strive to:

- provide information and answer inquiries about the process;
- receive Offer of Sale notices from owners;
- receive Statements of Interest from Tenants, Tenant Organizations, or Qualified Organizations;
- publish notices of Offers of Sale and Statements of Interest on website on at least a weekly basis;
- receive opportunity-to-purchase-related complaints;
- adjudicate opportunity-to-purchase-related complaints;
- issue cease and desist orders for violations;
- issue, upon request, letters to title companies stating whether it has received any complaints with respect to the Owner's compliance;
- receive signed declarations from Owners affirming that the sale of a Rental Housing Accommodation complied with the requirements of the Right of First Offer and Right of First Refusal in order to assist with evaluation and tracking of the program.

Options 2 would require additional administrative and enforcement tasks to manage the Qualified Organization selection process and provide guidance on tenant protection and rent stabilization requirements. The City should strive to:

- receive Qualified Organization applications and evaluate them based on criteria established by the City;
- publish notice of Qualified Organization applications and receive and evaluate public comments;
- maintain current list of Qualified Organizations and their contact information for use by Tenants, Tenant Organizations, and Owners; and
- receive annual reports on rent increases and surcharges from properties participating in the rent stabilization program.

Options 3 would require additional administrative and enforcement tasks to manage the Qualified Organization selection process, provide guidance on tenant protection, and additional 4d program staffing. The City should strive to:

- receive Qualified Organization applications and evaluate them based on criteria established by the City;
- publish notice of Qualified Organization applications and receive and evaluate public comments;
- maintain current list of Qualified Organizations and their contact information for use by Tenants, Tenant Organizations, and Owners.

STAFFING REQUIREMENTS

Options 1, 2, 3: Equivalent of 4 FTEs during initial 18-24 months: 6-12 months startup and 12 months for troubleshooting and process adjustments.

- **Manager** for all processes related to the Right of First Offer and Right of First Refusal and point person for providing information and answering inquiries about these rights;
- **Attorneys** to assist in evaluating and adjudicating complaints and issuing cease and desist orders; and
- **Administrative staff** to receive and process notices and complaints, compliance reports, and declarations, as well as to publish notices of Offers of Sale and Statements of Interest on a City website.

Option 2: Equivalent of 2 additional FTEs to manage with the Qualified Organization certification process and the rent stabilization program.

Option 3: Equivalent of 2 additional FTEs to manage with the Qualified Organization certification process and additional enrolments in the the City of Minneapolis 4d Affordable Housing Incentive Program.

The City should re-evaluate staffing needs after program stabilization.

City staff team is conducting staffing analysis based on known procedures and capabilities and consultant report.

TECHNICAL ASSISTANCE

- Housing developers receive technical assistance from their employees and external technical services providers to help them to successfully navigate the complex process of purchasing of properties.
- The process of educating tenants on their rights and responsibilities under an opportunity to purchase program, forming and managing a Tenant Organization, hiring a lawyer, choosing a development option, soliciting and negotiating with potential development partners or consultants is complicated and time consuming.
- Washington, DC has funded local, community-based nonprofits to provide technical assistance to tenants going through the TOPA process since 2006. DC currently funds the equivalent of 8 FTEs at these organizations. Berkeley's opportunity to purchase program recommends funding 6 FTEs at such organizations for this purpose. Berkeley's program would require tenants to work with a technical assistance provider. DC does not have such a requirement.
- The City should consider the provision of technical assistance by local, community-based nonprofits as important to the success of Options 1 and 2. Given the size of the City and the number of multifamily rental properties that are offered for sale each year, it should consider funding up to 8 FTEs to provide technical assistance. If the City funds this level of technical assistance or greater, then it could consider adopting a requirement for tenants to receive assistance from a City-funded technical services provider as a condition for exercising opportunity to purchase rights.
- Based on experiences of DC's technical services providers, the City should fund no fewer than 3 FTEs at any provider to foster the retention of organizational experience and memory, ensure continuity of service to tenants if an employee becomes ill or leaves the provider, and allow for the training of new staff as turnover occurs.

POLICY DECISIONS

- Determine which policy path (Option 1, 2, or 3)
- Assignability of rights (if yes, limited to Qualified Organization?)
- Unit size (applicable to Single Family, 2-4 units, 5+ units?)
- Age of properties (applicable to all properties or only those over a certain age?)
- Require Tenant Organizations in Options 1 and/or 2 to work with City-approved technical assistance providers to exercise their rights? If so, in what size properties?
- Rent stabilization or income and rent restrictions in Options 2 and 3?
- Criteria to become a Qualified Organization in Options 2 and 3
- Exemptions for types of properties and transfers in Options 1, 2, and 3



THANK YOU

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